

### **2.1.8 Cultural Resources**

This section addresses potential impacts to archaeological and architectural resources that are within the defined Area of Potential Effects (APE). The APE includes areas that may be directly or indirectly affected by construction of the project's build alternatives. An indirect impact occurs when the project would cause a change in character or use of the historic property, but it would not directly encroach or physically alter the property.

#### **2.1.8.1 Regulatory Setting**

The term "cultural resources," as used in this document, refers to the "built environment" (e.g., structures, bridges, railroads, water conveyance systems, etc.), places of traditional or cultural importance, and archaeological sites (both prehistoric and historic), regardless of significance. Under federal and state laws, cultural resources that meet certain criteria of significance are referred to by various terms including "historic properties," "historic sites," "historical resources," and "tribal cultural resources." Laws and regulations dealing with cultural resources include:

The National Historic Preservation Act (NHPA) of 1966, as amended, sets forth national policy and procedures for historic properties, defined as districts, sites, buildings, structures, and objects included in or eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and to allow the Advisory Council on Historic Preservation (ACHP) the opportunity to comment on those undertakings, following regulations issued by the ACHP (36 CFR 800). On January 1, 2014, the First Amended Section 106 Programmatic Agreement (PA) among FHWA, the ACHP, the California State Historic Preservation Officer (SHPO), and Caltrans went into effect for Caltrans projects, both state and local, with FHWA involvement. The PA implements the ACHP's regulations, 36 CFR 800, streamlining the Section 106 process and delegating certain responsibilities to Caltrans. FHWA's responsibilities under the PA have been assigned to Caltrans as part of the Surface Transportation Project Delivery Program (23 U.S.C. 327).

CEQA requires the consideration of cultural resources that are historical resources and tribal cultural resources, as well as "unique" archaeological resources. California PRC Section 5024.1 established the California Register of Historical Resources (CRHR) and outlined the necessary criteria for a cultural resource to be considered eligible for listing in the CRHR and, therefore, a historical resource. Historical resources are defined in PRC Section 5020.1(j). In 2014, AB 52 added the term "tribal cultural resources" to CEQA, and AB 52 is commonly

referenced instead of CEQA when discussing the process to identify tribal cultural resources (as well as identifying measures to avoid, preserve, or mitigate effects to them). Defined in PRC Section 21074(a), a tribal cultural resource is a CRHR or local register eligible site, feature, place, cultural landscape, or object which has a cultural value to a California Native American tribe. Tribal cultural resources must also meet the definition of a historical resource. Unique archaeological resources are referenced in PRC Section 21083.2.

PRC Section 5024 requires state agencies to identify and protect state-owned historical resources that meet the NRHP listing criteria. It further requires Caltrans to inventory state-owned structures in its ROWs. Procedures for compliance with PRC Section 5024 are outlined in a Memorandum of Understanding (MOU)<sup>1</sup> between Caltrans and the SHPO, effective January 1, 2015. For most federal-aid projects on the State Highway System, compliance with the Section 106 PA will satisfy the requirements of PRC Section 5024.

### 2.1.8.2 Affected Environment

This section has been prepared based on the analysis and findings presented in the following technical studies:

- *Supplemental Historic Property Survey Report* (November 2017)
- *Historic Property Survey Report* (April 2016)

Although the cultural resource reports completed for this project specifically address evaluation significance with regard to the federal NHPA and evaluation significance under NEPA, the information and analyses are consistent with the accepted approaches to support this analysis of evaluation significance under CEQA because of the similarity in the established criteria.

The purpose of the HPSR and ASR is to identify and evaluate buildings, structures, and sites along the project alignments that may qualify for listing in the NRHP and the CRHR. Both reports were prepared using the established framework for resource identification and treatment outlined in the First Amended Section 106 PA (2014), as appropriate. Potential historic properties were identified and evaluated for inclusion in the NRHP as required by 36 CFR Part 800 and the regulations implementing Section 106 of the NHPA. This assessment also conforms to CEQA requirements and evaluates potential historical resources for inclusion

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<sup>1</sup> The MOU is located in the Standard Environmental Reference at [http://www.dot.ca.gov/ser/vol2/5024mou\\_15.pdf](http://www.dot.ca.gov/ser/vol2/5024mou_15.pdf).

in the CRHR in accordance with Section 15064.5(a) (2)–(3) of the CEQA Guidelines using the criteria outlined in Section 5024.1 of the PRC.

There are no cultural Section 4(f) resource types within the project vicinity.

### ***Methodology and Results***

The project APE was established as the disturbance/direct impact area and permanent acquisition areas adjacent to the disturbance/direct impact area. The direct APE is the area that will be subject to direct construction disturbance during project construction, including the freeway and interchanges, soundwall locations, drainage culvert, inlet, and channel modifications, and permanent acquisition of a portion of an office property. The indirect APE are those areas outside of the direct impacts that may suffer indirect impacts (e.g., vibration, noise, viewshed) as a result of the project and generally include the adjacent built environment, when fitting. The buffer areas in the APE are primarily open space adjacent to I-405. There are no full permanent acquisitions as part of the project. The vertical APE accounts for modifications of bridges and overpasses proposed with a maximum bridge height of approximately 24 feet above grade and for a maximum depth of excavation of approximately 50 feet at the San Diego Creek Channel Bridge widening for augered pilings. The maximum depth of soundwall foundations is 20 feet. The maximum depth of roadway pavement widening and culvert, inlet, and channel modification work is 4 feet.

The ASR and HPSR evaluated the eligibility of potential resources and sites within the APE using NRHP criteria:

The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, association and:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of significant persons in our past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded or may be likely to yield, information important in history or prehistory.

Any property located in California that is listed in or eligible for the NRHP is automatically eligible for the CRHR. The CRHR criteria are tied to CEQA, and any resource that meets the criteria listed above is considered to be a historical resource under CEQA.

Subsequent to the completion of the HPSR, two new potential soundwalls were proposed that extended beyond the APE, requiring preparation of an SHPSR. The SHPSR was completed in November 2017, resulting in a Finding of No Historic Properties Affected. The only resources identified within the Supplemental APE, were modern housing tracts which qualify as Exempt from Evaluation under Attachment 4 of Caltrans' Section 106 PA.

The following standard sources of information were consulted:

- NRHP Web site (<http://www.cr.nps.gov/nr>)
- CRHR ([http://ohp.parks.ca.gov/?page\\_id=21238](http://ohp.parks.ca.gov/?page_id=21238))
- California Historical Landmarks
- California Points of Historical Interest
- Caltrans Historic Highway Bridge Inventory (CHHBI)

In addition, archival research helped determine the location of previously documented cultural resources proximate to the project and helped establish a context for significance. An archaeological and historical resources records search for the Project APE and the surrounding 0.5-mile radius was conducted by David Smith of BonTerra Psomas on June 2, 2015, and updated on September 28, 2017, by Charles Cisneros at the South Central Coastal Information Center (SCCIC), housed at the Department of Anthropology at California State University, Fullerton. The results of the records search indicate that 82 studies have been conducted within a 1-mile radius of the APE. Twenty-five (25) include a portion of the APE. The results of the records search indicate that 11 cultural resources have been recorded within 0.5 mile of the APE. Of these, nine are prehistoric sites, one is a historic structure, and one is a California Landmark identified as Barton's Mound recorded in 1980. One prehistoric site, CA-ORA-1580, has been recorded within the APE immediately south of the Jeffrey Road interchange; however, upon further review, it has been determined to be a redeposit of unknown origin that falls outside the APE.

A review of the California Historic Resources Information System (CHRIS) results shows that three residences have been listed in the Historic Property Data File. A house at 1782 Nisson Road, which was built in 1952, has been designated 7R, indicating that it was identified in a reconnaissance survey but was not evaluated. A second house at 560 Pacific Street, which was

built in 1930, is listed as 5B, indicating that it is locally significant as a contributor to a local district. The third house is located at 391 Pasadena Avenue. The house was built in 1952 and is listed as 7R.

There are four highway bridges and one pedestrian bridge (No. 550639, Yale Avenue Pedestrian OC, 12-ORA-405-4.67-IRVN) that cross north-south over I-405. The CHHBI [Structure Maintenance & Investigations (SM&I)], accessed November 2015, has given each of the highway bridges the designation of Historical Significance Category 5 – not eligible for listing in the NRHP. The Inventory, accessed November 2015, has given the pedestrian bridge the designation of Historical Significance Category 4 – not yet evaluated for listing in the NRHP because it has not exceeded 45 years of age; therefore, it is ineligible for inclusion in the NRHP.

The first phase of studying the historic built environment was to study the historic aerial photographs of the APE dating from 1963 and 1972. This was to identify any existing built environment resources in place in 1963 and 1972, and then compare the current APE for direct and indirect impacts against those known areas of having built environment resources more than 45 years old.

The study of the aerial photographs revealed that two housing tract developments and one school built within the range of influence of The Irvine Company, located on the north and south side of I-405, were situated within the indirect APE and had sufficient age to require additional investigation.

With specific property/parcel information, a targeted windshield survey was made of those properties identified as having been constructed before 1971. A pedestrian and windshield survey was conducted on December 2, 2015, targeting those properties to ascertain if the properties required an intensive-level survey or could be exempted under applicable Attachments of the PA. The results of these surveys and subsequent analysis found that no built environment resources were eligible for the NRHP.

Lastly, an archaeological survey of the APE was conducted on November 4, 2015. No archaeological resources were identified within the APE during the survey.

### ***Public Participation and Native American Coordination***

In accordance with Section 106 of the NHPA, on September 18, 2015, letters were sent to local historical societies/historic preservation groups requesting from them any information they may have regarding any cultural resources that may be of significance within the project APE.

Letters were sent to the Irvine Ranch Historical Society and to the Orange County Historical Society. No response from the organizations has been received.

A sacred lands record search was requested from the California Native American Heritage Commission (NAHC) on May 26, 2015. The NAHC responded on June 22, 2015, via letter, in which they indicated the potential presence of Native American cultural resources in the USGS Tustin Quadrangle that may be disturbed by project activities. The NAHC recommended contacting the Juaneño Band of Mission Indians, Acjachemen Nation, for specific information. To that end, a discussion with Ms. Joyce Perry of the Juaneño Band of Mission Indians, Acjachemen Nation, revealed that there is an important resource near the Rancho San Joaquin Golf Course; however, it is more than 0.25 mile west of the APE.

In addition, the following tribes and individuals were contacted on June 25, 2015, via informational letters to submit their comments on the project. Follow-up telephone calls were made to those individuals not responding to the letter:

- Chairperson, Juaneño Band of Mission Indians Acjachemen
- Anita Espinoza, Juaneño Band of Mission Indians
- Teresa Romero, Chairwoman, Juaneño Band of Mission Indians, Acjachemen Nation
- Rebecca Robles, United Coalition to Protect Panhe (UCPP)
- Adolph Sepulveda, Vice Chairperson, Juaneño Band of Mission Indians
- Joyce Perry, Tribal Manager, Juaneño Band of Mission Indians, Acjachemen Nation
- Sonia Johnston, Tribal Chairperson, Juaneño Band of Mission Indians

One tribe has responded via mail or e-mail. Rebecca Robles of UCPP replied via e-mail on July 14, 2015. Ms. Robles stated that they have no information on Sacred Lands in the project area, and it appears that there are no resources present. They would like to be informed if buried resources are discovered during construction so they can comment as appropriate. No other responses were received.

As part of the requirements for AB 52 (California Native American Tribe consultation), tribes that requested notification on District 12 projects were sent letters by Caltrans on October 26, 2015, offering consultation on the project. The tribes included:

- Joyce Perry, Tribal Manager, Juaneño Band of Mission Indians, Acjachemen Nation
- Andrew Salas, Chairman, Gabrieleño Band of Mission Indians – Kizh Nation
- Joseph Ontiveros, Cultural Resources Director, Soboba Band of Luiseño Indians

No AB 52 responses were received for this project by Caltrans.

As part of the November 2017 SHPSR, a second sacred lands record search request to the NAHC was made on October 17, 2017. The NAHC responded on October 18, 2017, via letter, with results of the supplemental sacred lands file check indicating that the NAHC has no record of any Native American sacred lands in the immediate vicinity of the project site; however, the NAHC noted that the absence of specific site information in Sacred Lands File search does not indicate the absence of Native American cultural resources in any APE. Given that the two new soundwall locations were immediately adjacent to the original Indirect APE for the project and no cultural or tribal resources were identified in the overall project area, it was determined that additional consultation was not necessary.

Psomas Senior Archaeologist Charles Cisneros surveyed the proposed locations for the replacement soundwalls (S228 and S266) on October 23, 2017. Overall, the proposed locations for the new soundwalls are within developed areas. One location (S266) was located behind a gated community and was inaccessible by nonresidents. The site visit resulted in negative results for cultural resources.

Additionally, given the extremely small APE expansion consisting primarily of a residential development, negative records search, and NAHC SLF search results, it was determined that a supplemental ASR was not necessary.

### **2.1.8.3 Environmental Consequences**

#### ***Alternative 1 (No Build)***

##### ***Archaeological Resources***

Alternative 1 would maintain the existing roadway; therefore, it would not alter existing conditions. Existing archaeological resources would not be temporarily or permanently affected by the No Build Alternative.

##### ***Built Environment Resources***

Alternative 1 would maintain the existing roadway; therefore, it would not alter existing conditions. Existing built environment resources would not be temporarily or permanently affected by the No Build Alternative.

### ***Build Alternative 2 (Preferred Alternative) and Build Alternative 3***

#### *Archaeological Resources*

No archaeological resources were identified during the survey for the current project. The literature and records search did not reveal any known archaeological sites within 0.25 mile of the project. Given the results of the Extended Phase 1 study completed within a portion of the APE for another project in November 2015, the riverine nature of the subsurface soils, and the disturbed nature of the uppermost layers of sediment in the APE coupled with the minimal planned project excavations, the anticipated likelihood of encountering archaeological resources is low. There are not any anticipated project-related effects to any archaeological resources.

#### *Built Environment Resources*

No built environment resources within the APE required evaluation. As a result of the cultural studies completed for this project, the project has no potential to affect historic properties that are listed in or potentially eligible for listing in the NRHP. Caltrans, pursuant to Section 106 PA Stipulation IX.A, has determined a Finding of No Historic Properties Affected is appropriate for this undertaking because there are no historic properties within the APE. Caltrans Professionally Qualified Staff has determined that there are resources in the project area that were previously determined not to meet NRHP or CRHR criteria, as outlined in CEQA Guidelines 15064.5(a), that the prior determination remains valid, and they are not historical resources for purposes of CEQA. The only other properties identified within the APE were determined to be exempt from evaluation per the Section 106 PA and have no potential for NRHP eligibility.

### **Construction (Short-Term) Impacts**

#### *Archaeological Resources*

Though there are no known archaeological sites in the project area, construction activities have the potential of disturbing or destroying unknown sites that are currently buried and/or human remains. Implementation of Minimization Measures CR-1 and CR-2, under Avoidance, Minimization, and/or Mitigation Measures in Section 2.1.8.4, will help minimize impacts to unknown cultural resources and human remains identified during construction. Should a previously unidentified and/or unevaluated archaeological resource or resource segment that meets any of the eligibility criteria for the NRHP be discovered or impacted during project activities and adverse effects pursuant to 36 CFR 800.5 cannot be avoided, actions shall be taken in compliance with 36 CFR 800.13 and the terms of the First Amended Programmatic Agreement (2014).



*Built Environment Resources*

The project has no potential to affect historic properties that are listed in or potentially eligible for listing in the NRHP.

**2.1.8.4 Avoidance, Minimization, and/or Mitigation Measures**

The proposed project is not expected to impact any cultural resources; however, the following minimization measure will be followed in the event of any unanticipated discoveries. Standardized measures which are employed on most, if not all, Caltrans projects are indicated in bold.

**CR-1:** If cultural resources are discovered at the jobsite, all work activities shall stop within a 60-foot radius of the discovery, the discovery area shall be protected, and the Resident Engineer shall be notified. Cultural resources shall not be moved or taken from the jobsite until Caltrans investigates and determines the significance of the find. Work activities shall not resume within the discovery area until Caltrans provides written notification authorizing work activities to resume.

**CR-2:** If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities will cease in any area or nearby area suspected to overlie remains, and the County Coroner will be contacted. Pursuant to PRC Section 5097.98, if the remains are thought to be Native American, the Coroner will notify the NAHC, who will designate the Most Likely Descendent (MLD). At this time, the Caltrans District 12 Environmental Branch Chief will be contacted so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable.

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